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**BY ECF**

Hon. Valerie Figueredo  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *Burns v. City of New York, et al.*  
No. 22-CV-2371 (AT) (VF)

Application Granted

Valerie Figueredo, U.S.M.J.

DATED: 10-31-2022

The initial case management conference is hereby rescheduled to Tuesday, November 15, 2022 at 10:30 a.m. The Clerk of Court is directed to terminate the motion at ECF No. 27. SO ORDERED.

Dear Judge Figueredo:

I am an Assistant Corporation Counsel in the Office of Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for the City of New York in the above-referenced matter, in which Plaintiff alleges he did not receive a second dosage of the COVID-19 vaccine while in the custody of the New York City Department of Correction. I write to respectfully request that the Court adjourn the initial case management conference currently scheduled for November 7, 2022 to a date at least 21 days after the City submits its reply in support of its currently pending motion to dismiss pursuant to Rules 12(b)(1) and 12(b)(6).

On October 20, 2022, the City filed its motion to dismiss the Complaint in its entirety. *See* ECF Nos. 22-25. The deadline for Plaintiff to serve and file his opposition to the City's motion, if any, is currently November 21, 2022, and the City's deadline to file its reply is two weeks after receipt of Plaintiff's opposition papers. *See* ECF No. 22. If Plaintiff serves his opposition on November 21, 2022, the City anticipates its deadline to serve and file its reply will be December 8, 2022.<sup>1</sup>

On October 21, 2022, the Court entered its Initial Case Management Conference Order. ECF No. 26. In the Order, the Court set an initial case management conference to be held on November 7, 2022, and directed the parties to confer, pursuant to Rule 26(f), at least 21 days

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<sup>1</sup> Because Plaintiff is incarcerated and proceeding *pro se* the City anticipates Plaintiff will serve his opposition by mail, and therefore the City will receive it three days later.

in advance. Because the Court issued its Order 17 days in advance of the conference, the parties are unable to comply with this directive, and require more time to hold a Rule 26(f) conference.

Accordingly, to permit the parties to comply with the Court's directives, and to focus their efforts on the motion to dismiss, the City respectfully requests that the Court adjourn the initial case management conference to a date at least 21 days after the City files its reply in support of its motion to dismiss, or at least until December 29, 2022. Because I will be out of the state and on leave that date, I respectfully request that the Court adjourn the conference to a date slightly more than 21 days after the City files its reply, or until after January 3, 2023. This is the first such request the City has made. I was not able to obtain the Plaintiff's consent to the request made herein because he is currently incarcerated and proceeding *pro se*.

Lastly, the City wishes to advise the Court that once it files its reply in support of its motion to dismiss, it expects it will seek a stay of all discovery pursuant to Rule 26(c).

Thank you for your consideration of this matter.

Respectfully submitted,

/s/ Aaron Wiener

Aaron Wiener, Esq.  
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cc: By First Class Mail  
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